

JULIE R. ULMET

February 8, 2025

By ECF and Email (Torres NYSDChambers@nysd.uscourts.gov)

The Honorable Analisa Torres
United States District Court for the Southern District Of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Anna Netrebko v. Metropolitan Opera Association, Inc., et al.*
Case No. 23-cv-6857

Dear Judge Torres,

I represent Plaintiff Anna Netrebko in the above-referenced case. Plaintiff submits this letter to bring to the Court's attention supplemental authority relevant to her pending Motion for Reconsideration (ECF Doc. No. 65). On January 13, 2025, the Second Circuit issued the attached decision in *Pearson v. Gesner*, which addresses legal issues relevant to the pending motion. 2025 U.S. App. LEXIS 637; 125 F.4th 400; 2025 WL 77229 (2d Cir. Jan. 13, 2025).

In her memorandum of law in support of the Motion for Reconsideration, Plaintiff argued that reconsideration is warranted because the Court's August 22, 2024 Order improperly relied on factual assertions in two documents that may not be considered for the truth of the matters asserted therein on a motion to dismiss. (ECF Doc. No. 66, p. 6-8). In *Pearson v. Gesner*, the Second Circuit vacated portions of the district court's decision on a motion to dismiss where the court had improperly relied on documents extraneous to the pleadings that were inconsistent with the plaintiff's allegations in the complaint. 2025 U.S. App. LEXIS 637, at *19-20. In particular, the court explained that if a complaint "attaches or incorporates a document for purposes other than the truthfulness of the document, it is inappropriate to treat the contents of that document as true," referencing as an example an underlying adverse administration determination. *Id.* at *14-15 (quoting *Goines v. Valley Cmty. Servs. Bd.*, 822 F.3d 159, 168 (4th Cir. 2016)).



This recent decision provides further support for Plaintiff's arguments on pages 2-4 of Plaintiff's Motion for Reconsideration (ECF Doc. No. 65, p. 6-8) and page 2-3 of Plaintiff's Reply (ECF Doc. No. 81, p. 5-6).

Respectfully submitted,

/s/ Julie R. Ulmet

Julie R. Ulmet
Counsel for Plaintiff

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Attachment: (*Pearson v. Gesner*, 2025 U.S. App. LEXIS 637; 125 F.4th 400; 2025 WL 77229 (2d Cir. Jan. 13, 2025)).